

Message Text

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FM AMEMBASSY CANBERRA

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C O N F I D E N T I A L CANBERRA 6640

E.O. 11652: GDS

TAGS: PFOR, AS

SUBJECT: DEFAMATION SUIT BY WILFRED BURCHETT AGAINST DLP
SECRETARY, SENATOR JOHN KANE

REF: CANBERRA 4654

1. SUMMARY: SUIT FOR DEFAMATION BY WILFRED BURCHETT, WELL-
KNOWN AUSTRALIAN COMMUNIST, AGAINST DLP FEDERAL SECRETARY, FORMER
SENATOR JOHN KANE (REFTEL), DUE TO BE HEARD IN SYDNEY OCT 21.
NEW SOUTH WALES LIBEL LAWS ARE VERY STRICT, AND KANE HAS TOLD
OUR CONSUL GENERAL IN SYDNEY THAT BURCHETT MAY WIN SUIT. THIS MAY
BE OVERLY PESSIMISTIC VIEW, BUT NUMEROUS AUSTRALIAN JOURNALISTS
AND POLITICAL OBSERVERS HAVE COMMENTED TO US THAT RELATIVE LACK
OF ENTERPRISE OF AUSTRALIAN MEDIA IS LARGELY DUE TO STRICT LIBEL
LAWS. MAIN ISSUES LIKELY TO COME UP AT TRIAL ARE RE-HASH OF OLD
"GERM WARFARE" CHARGES AGAINST U.S. IN KOREA AND ALLEGATIONS
MADE BEFORE U.S. CONGRESSIONAL COMMITTEE THAT BURCHETT WAS KGB
OFFICER. NO PARTICULAR ACTION FOR U.S. TO TAKE, AS SUIT NOW IN
HANDS OF COURT. WE MAY WELL FACE MODERN AUTO DA FE IN WHICH U.S.
COULD BE "CONVICTED" OF "GERM WARFARE IN KOREA" WITH PROPAGANDA
EVIDENCE FROM COLDEST DAYS OF THE COLD WAR. END SUMMARY.

2. SUIT FOR DEFAMATION OF CHARACTER BROUGHT BY WILFRED BURCHETT,
WELL-KNOWN AUSTRALIAN COMMUNIST, AGAINST FORMER SENATOR JOHN KANE
(FEDERAL SECRETARY OF DLP) AND "FOCUS" MAGAZINE (MONTHLY
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PUBLICATION OF DLP), IS DUE FOR TRIAL IN SYDNEY OCT 21. AS

NOTED IN REFTTEL, DLP FACES DAMAGES OF A\$1.0 MILLION. IN CONVERSATION WITH OUR CONSUL GENERAL IN SYDNEY OCT 2 KANE NOTED THAT LIBEL LAWS IN NEW SOUTH WALES (WHERE "FOCUS" IS PUBLISHED) ARE PARTICULARLY TOUGH AND SAID THAT IT IS QUITE POSSIBLE THAT BURCHETT COULD WIN THIS CASE UNDER EXISTING LEGISLATION AND COURT PRECEDENTS. THIS MAY BE OVERLY PESSIMISTIC VIEW, BUT THERE IS NO DOUBT THAT AUSTRALIAN LIBEL LAWS ARE VERY STRICT, BY AMERICAN STANDARDS. STRICTNESS OF THE LIBEL LAWS, IN VIEW OF MANY AUSTRALIAN JOURNALISTS, IS REASON FOR RELATIVE LACK OF ENTERPRISE BY AUSTRALIAN MEDIA.

3. SUIT IS OF CONSIDERABLE INTEREST TO U.S. NOT ONLY IS SENATOR KANE AND DLP, WHO HAVE SUPPORTED MOST U.S. POLICIES IN EAST ASIA, DIRECTLY INVOLVED. DENIS WARNER, VETERAN MELBOURNE JOURNALIST WHO IS WELL AND FAVORABLY KNOWN TO EMBASSY, HAS MADE SIMILAR CHARGES AGAINST BURCHETT, ACCUSING HIM OF "TREASONABLE" CONDUCT DURING THE "GERM WARFARE CONFESSIONS" BY AMERICAN PRISONERS OF WAR IN KOREA. WARNER EXPECTS THAT SUIT AGAINST HIM WILL COME UP AFTER SUIT AGAINST SENATOR KANE IS DISPOSED OF AND, IF BURCHETT WINS CASE AGAINST KANE, HE IS LIKELY TO WIN SUIT AGAINST DENIS WARNER AS WELL. SUCCESSFUL SUIT BY BURCHETT WILL INEVITABLY BE REGARDED IN AUSTRALIA AND PERHAPS ELSEWHERE AS VINDICATION OF "GERM WARFARE" CHARGES.

4. BURCHETT'S ATTORNEY WILL BE CLYDE EVATT, BROTHER OF THE LATE HERBERT EVATT, FORMER AUSTRALIAN MINISTER FOR FOREIGN AFFAIRS, PRESIDENT OF THE UNGA IN 1948, AND PARLIAMENTARY LEADER OF THE ALP FROM 1950 TO 1960. CLYDE EVATT, NOW 74, HAS LONG BEEN ASSOCIATED WITH THE FAR LEFT OF THE ALP BUT IS NOW TOO OLD TO BE POLITICALLY ACTIVE. HE IS SPECIALIST IN LIBEL SUITS AND MASTER OF OLD-STYLE LEGAL ORATORY. HE IS NOT ALWAYS THE VICTOR, HAVING RECENTLY AND UNSUCCESSFULLY PLEADED SUIT FOR LIBEL AGAINST NEW SOUTH WALES PREMIER, SIR ROBERT ASKIN, ON BEHALF OF COMMUNIST PARTY OF AUSTRALIA PRESIDENT, JOHN MUNDEY.

5. WE HAVE BEEN TOLD BY DENIS WARNER THAT BRIGADIER GENERAL JOHN F. QUINN, USAF, ONE OF THE AMERICAN POW'S FORCED TO SIGN BOGUS CONFESSIONS ON GERM WARFARE IN KOREA, WILL COME TO AUSTRALIA TO TESTIFY ON SENATOR KANE'S BEHALF. WARNER ALSO TELLS US THAT HE HAS EXCHANGED CORRESPONDENCE WITH SECRETARY KISSINGER ON CONFIDENTIAL

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BURCHETT AND THAT SECRETARY HAS BEEN "WONDERFULLY HELPFUL" IN PUTTING WARNER AND HIS LAWYERS IN TOUCH WITH PEOPLE WHO ARE PREPARING HIS DEFENSE IN SUIT SUBSEQUENT TO KANE TRIAL. WARNER SAYS THAT DEPUTY PRIME MINISTER CAIRNS, WHOSE LEFTIST BACKGROUND IS WELL-KNOWN, WILL TESTIFY FOR BURCHETT AT KANE TRIAL.

6. COMMENT: THERE IS NO PARTICULAR ACTION FOR U.S. TO TAKE AT THIS POINT, AS MATTER NOW IN HANDS OF COURT IN SYDNEY. EVENTS

RELATE PRIMARILY TO OLD "GERM WARFARE" ISSUE OF THE 1950'S AND TO SUBSEQUENT ALLEGATIONS BEFORE U.S. CONGRESSIONAL COMMITTEE BY EX-SOVIET CITIZEN, GEORGE CALLIN, THAT BURCHETT WAS KGB OFFICER (PARA 4, REFTTEL). DUE TO PERSONALITIES OF BURCHETT AND KANE, AS WELL AS LEFTIST PROCLIVITIES OF ATTORNEY CLYDE EVATT AND DEPUTY PRIME MINISTER CAIRNS, WE MAY WELL FACE A MODERN AUTO DA FE AT TRIAL IN WHICH THE U.S. COULD BE "CONVICTED" OF "GERM WARFARE IN KOREA" WITH PROPAGANDA EVIDENCE STRAIGHT OUT OF THE COLDEST DAYS OF THE COLD WAR. CONSIDERABLE MEDIA ATTENTION IS EXPECTED.

7. NOT CLEAR TO EMBASSY WHAT ATTITUDE OF WHITLAM GOVERNMENT WILL BE TOWARDS SUIT. ON ONE HAND, SINCE CASE IS SUB JUDICE, AND WHITLAM IS PUNCTILIOUS LAWYER, IT SHOULD TAKE NO POSITION WHATSOEVER, PARTICULARLY AS TRIAL OPENS SHORTLY AFTER WHITLAM'S GENERALLY SUCCESSFUL VISIT TO U.S. HOWEVER, PROSPECT THAT DLP AND SENATOR KANE MAY BE SERIOUSLY EMBARRASSED IS LIKELY TO DELIGHT MANY ALP FIGURES, PARTICULARLY AS KANE WAS DEEPLY INVOLVED IN "SPLIT" BETWEEN ALP AND DLP IN 1955 WHICH KEPT LABOR OUT OF POWER FOR AT LEAST 15 EXTRA YEARS. ON BURCHETT, ONE OF FIRST ACTS OF WHITLAM GOVERNMENT IN DEC, 1972, WAS TO AUTHORIZE ISSUANCE OF AUSTRALIAN PASSPORT TO BURCHETT, WHICH LIBERAL-COUNTRY GOVERNMENTS HAD CONSISTENTLY REFUSED TO DO. END COMMENT.

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